

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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December 10, 2019

BY ECF

Honorable Alison J. Nathan
United States District Judge
Southern District of New York

Re: United States v. Burrell, et al.
15 Cr. 95 (AJN)

DEC 20 2019

Dear Judge Nathan,

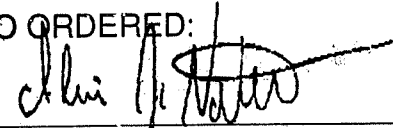
The Court previously appointed the Federal Defenders to represent five co-defendants in the above captioned case—Tayquan Tucker (14), Marlon Roberts (16), Jafar Borden (23), Devante Joseph (28), and Ivanjoel Aryeety (32)—in connection with filing motions based on the Supreme Court's decision in *United States v. Davis*, 139 S. Ct. 2319 (2019). These defense motions were filed in November 2019 and the government's response to these motions is currently due December 20, 2019.

I have conferred with the government and write to provide an update, and to request that the Court appoint CJA counsel for four of these defendants.

Defendants Devante Joseph and Jafar Borden previously pled guilty to two offenses: a racketeering conspiracy, in violation of 18 U.S.C. § 1962(d), and a firearms offense, in violation of 18 U.S.C. § 924(c). For these two defendants, I understand that the government anticipates agreeing that their § 924(c) convictions should be vacated and requesting resentencing on the remaining count. Unfortunately, it would present a conflict of interest for the Federal Defenders to represent co-defendants in a resentencing proceeding. Accordingly, we request that the Court appoint CJA panel lawyers to represent these two defendants for purposes of resentencing.

With respect to defendants Tayquan Tucker and Ivanjoel Aryeety, I understand that the parties would like to engage in plea discussions that would potentially resolve the defendants' pending § 2255 motions. However, again, it would present a conflict for the Federal Defenders to represent co-defendants in plea negotiations. As a result, we request that the Court appoint CJA panel lawyers to represent these two defendants going forward. In addition, to provide the parties an opportunity to engage in these discussions, we respectfully request that the remaining motion deadlines for these two defendants be extended by 45 days. This extension will permit time for the Court to appoint conflict-free counsel, for counsel

SO ORDERED:


HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

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to confer with their clients (who are incarcerated at remote facilities), and for the parties to discuss a possible disposition to resolve the pending motions.

Respectfully submitted,

/s/ Sarah Baumgartel
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cc: AUSA Jessica Feinstein (by ECF)